

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-cr-40028-JPG-1

DEVARIO M. GALE,

Defendant.

**MEMORANDUM AND ORDER**

This matter comes before the Court on Defendant Devario M. Gale's Motion for Medical and/or Psychiatric Evaluation and Treatment (Doc. 19), which the Court construes as a motion for for a psychological examination of Gale and a determination of his competency to stand trial pursuant to 18 U.S.C. § 4241. The Court finds there is reasonable cause to believe that Gale may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Being fully advised of the premises, the Court **GRANTS** the instant motion (Doc. 19) to the extent that it requests an examination to determine Gale's competency to stand trial.

The Court **ORDERS** that, pursuant to 18 U.S.C. § 4247(b), Gale be committed to the custody of the Attorney General for a period not to exceed 30 days for placement in a suitable facility. It is further ordered that, pursuant to 18 U.S.C. § 4247(b), a psychiatric or psychological examination of Gale be conducted by a licensed or certified psychiatrist or psychologist. The examination shall be completed within 30 days, providing, however, that the director of the facility may apply for a reasonable extension of the period of custody of the Attorney General, but not to exceed fifteen days, upon a showing of good cause that the additional time is necessary to observe and evaluate Gale. A psychiatric or psychological report, or both, shall be filed with this Court in

accordance with 18 U.S.C. § 4247(b) and (c), with copies to counsel, which shall include:

- (1) Gale's history and present symptoms;
- (2) a description of the psychiatric, psychological, and medical tests that were employed and their results;
- (3) the examiner's findings; and
- (4) the examiner's opinions as to diagnosis, prognosis and whether Gale is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Upon notification by the Bureau of Prisons of Gale's designation for examination, the United States Marshal shall transport him immediately to the institution designated by the Bureau of Prisons and upon completion of the examination, return him to the Southern District of Illinois for a hearing which shall be scheduled after the Court receives the examiner's report in accordance with 18 U.S.C. § 4247(d).

The 30 days allowed for the examination shall begin on the day Gale is physically present at the designated institution and any request for an extension of this period shall be made not less than 10 days prior to the expiration of the initial 30-day period.

Finally, the Court notes that Gale and the public's right to a speedy trial shall be tolled during his transportation to and from the abovementioned facility. 18 U.S.C. § 3161(h)(1)(F) (2006). Likewise, Gale and the public's right to a speedy trial shall be tolled during his medical evaluation and treatment at said facility. *Id.* § 3161(h)(1)(A).

**IT IS SO ORDERED.  
DATED: June 2, 2011**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**